HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.26657 of 1997

Dated:31.01.2007

Between:

Tallam Kasturaiah and others.

...Petitioners.

and

The Government of Andhra Pradesh represented by its Principal Secretary, Revenue Department, Secretariat, Hyderabad. and others.

...Respondents

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ORDER:

The petitioners state that they are in possession and enjoyment of 0.16 cents of land in Sy.No.123 of Kadivedu Village, Chillakur Mandal, Nellore District, and constructed houses thereon. According to them, the Gram Panchayat is receiving tax and has assigned house numbers to them. Their grievance is that the respondents are trying to evict them, without initiating any proceedings, or following any procedure prescribed by law.

On behalf of respondents, a counter-affidavit is filed. The existence of the structures raised by the petitioners over the land in question, is accepted. It is stated that apart from the sheds raised by the petitioners, other Government establishments, such as, office of Primary Agricultural Co-operative Society, Gram Panchayat office, office of the Agricultural Officer, Veterinary Hospital, Gram Panchayat Well and Racha Banda etc., are existing over the other extent of land in the said survey number, which belongs to the Government. It is stated that the petitioners

approached this Court at a time when the compound wall was being constructed at the veterinary hospital and the same has been since complied with. According to them, the case of the petitioners that they have perfected their title by way of adverse possession, is a matter to be decided by a competent Court of civil jurisdiction. The balance of the extent under occupation of the petitioners is earmarked for providing house sites to the other needy persons.

Heard the learned counsel for the petitioners and the learned Government Pleader for Revenue.

The petitioners do not dispute that the land encroached upon by them belongs to Government and the Government offices are within the vicinity. Even assuming that the long-standing possession of the petitioners deserves to be recognised, their actual need and the necessity of other needy persons, must be taken into account. In case, the respondents intend to take possession of any property under occupation of the petitioners, they are under obligation to issue notice and ascertain the views of the petitioners. Unilateral action in this regard, cannot be countenanced.

Hence, the Writ Petition is disposed of, directing that the respondents shall not dispossess the petitioners from the houses and abutting land, except after issuing notice to them. There shall be no order as to costs.

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Dt.31.01.2007
L.NARASIMHA REDDY, J

GJ